

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-02-KC-587
	)	
Hunt Broadcasting Group, Inc.	)	NAL/Acct.No. 200232560026
Licensee of Radio Stations KPWB AM and FM at	)	
Piedmont, Missouri	)	FRN 0006-1631-09
	)	
Doniphan, Missouri		

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: September 30, 2002**

By the Enforcement Bureau, Kansas City Office:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Hunt Broadcasting Group, Inc. (“Hunt”), licensee of radio stations KPWB AM and FM, Piedmont, Missouri, apparently liable for a forfeiture in the amount of nineteen thousand dollars (\$19,000) for willful violation of Sections 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6) and 73.3526(e)(12) of the Commission's Rules (“Rules”).<sup>1</sup> Specifically, we find Hunt apparently liable for failure to provide an effective locked fence enclosing the base of the station’s AM antenna, failure to provide transmitter control and monitoring capabilities, failure to maintain operational Emergency Alert System (“EAS”) equipment, and failure to maintain all required items in the station’s public inspection file.

**II. BACKGROUND**

2. On July 16, 2002, an agent from the Commission’s Kansas City Field Office inspected stations KPWB AM and FM located in Piedmont, Missouri. The agent observed that the station’s AM antenna tower was not enclosed inside an effective fence or other protective enclosure. A fence consisting of wide-spaced 2x4 lumber surrounded the tower but allowed easy access to the tower base. Although the FM transmitter site was located remotely on a mountaintop site accessible only by all-terrain vehicle, the agent found no remote transmitter control and monitoring equipment at the studio. The station manager stated that the station’s remote control had been out of operation for approximately one month. The agent inspected the station’s EAS equipment and found the equipment capable of monitoring only one of the two required EAS sources. The station’s logs contained no entries indicating EAS equipment had been removed from service for repairs. No logging of EAS tests has occurred since April 10, 2002. Additionally, the latest ownership report, current political requests and current issues/programs lists were not in the public file.

---

<sup>1</sup> 47 C.F.R. §§ 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6) and 73.3526(e)(12).

### **III. DISCUSSION**

3. Section 73.49 of the Rules requires that antenna towers having radio frequency potential at the base must be enclosed within effective locked fences or other enclosures. On July 16, 2002, KPWB's AM antenna tower was not enclosed by an effective enclosure.

4. Section 73.1350(b)(2) of the Rules requires that the transmitter control personnel have the capability to turn the transmitter off at all times. If the personnel are at a remote location, the control system must provide this capability continuously or must include an alternate method of acquiring control of the transmitter that can satisfy the requirement of 73.1350(d) that operation can be terminated within 3 minutes in the event that a broadcast station is operating in a manner that is not in compliance with the technical rules set forth. Section 73.1350(c) of the Rules requires the licensee to establish monitoring procedures and schedules, and provide indicating instruments that comply with Section 73.1215 of the Rules. At the time of inspection on July 16, 2002, no remote control or monitoring equipment was installed or operational at the KPWB FM remote control point. The station manager stated that the remote control equipment had been out of service for at least one month.

5. Section 11.35(a) of the Rules requires broadcast stations to ensure EAS equipment is installed so that the monitoring and transmitting functions are available when the station is in operation. In addition, Section 11.35(b) of the Rules requires that if EAS equipment becomes defective, the date and time the equipment was removed from service must be entered in the station log. On July 16, 2002, the EAS equipment at the KPWB studio was missing the necessary equipment to monitor the required second EAS source. The station's log had no entries concerning EAS equipment removed from service for repair.

6. Section 73.3526(e)(5) of the Rules requires that a copy of the most recent, complete ownership report filed with the FCC for the stations, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related materials. On July 16, 2002, there were no copies of any ownership report available in the public file.

7. Section 73.3526(e)(6) of the Rules requires a record be kept of all requests received from candidates for public office for broadcast time. Such records are required to be retained for two years. On July 16, 2002, the latest political requests available in the public file during inspection were dated for the year 1999, even though political ads were being aired at the time of inspection.

8. Section 73.3526(e)(12) of the Rules requires a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list shall include a brief narrative describing what issues were giving significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration and title of each program in which the issue was treated. The lists shall be retained in the public inspection file until final action has been taken on the station's next renewal application. On July 16, 2002, the most current issues-programs listing available at the time of inspection was dated for the year 2000.

9. Based on the evidence before us, we find that on July 16, 2002, Hunt willfully<sup>2</sup> violated Sections 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6) and 73.3526(e)(12) of the Rules by failing to provide an effective locked fence enclosing the base of the KPWB AM tower, failing to provide transmitter control and monitoring capabilities for the KPWB FM transmitter, failing to maintain operational EAS equipment, and failing to maintain a current ownership report, request for political time and issues-programs lists in the station's public inspection file.

10. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount is \$7,000 for AM tower fencing violations, \$3,000 for violation of transmitter control and metering requirements, \$8,000 for failure to maintain operational EAS equipment, and \$10,000 for violation of the public file rules.<sup>3</sup> Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."<sup>4</sup> Because the EAS equipment was capable of monitoring one of the required two sources, a downward adjustment of the base forfeiture for that violation from \$8,000 to \$4,000 is warranted. Because the station maintained a portion of the required items in the public inspection file, a downward adjustment of the base forfeiture for that violation from \$10,000 to \$5,000 is warranted. Considering the entire record and applying the statutory factors listed above, this case warrants a \$19,000 forfeiture.

#### IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>5</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>6</sup> Hunt Broadcasting Group, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of nineteen thousand dollars (\$19,000) for willful violation of Sections 73.49, 73.1350(b)(2), 73.1350(c), 11.35(a), 73.3526(e)(5), 73.3526(e)(6) and 73.3526(e)(12) of the Rules, by failing to provide an effective locked fence enclosing the base of the KPWB AM tower, failing to provide control and monitoring capabilities for the KPWB FM transmitter, failing to maintain operational EAS equipment, and failing to maintain all required items in the station's public inspection file.

---

<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>3</sup> 47 C.F.R. § 1.80(b)(4).

<sup>4</sup> 47 U.S.C. § 503 (b)(2)(D).

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Hunt Broadcasting Group, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and NAL/Acct. No. referenced in the letterhead above.

14. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>7</sup>

17. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Hunt Broadcasting Group, Inc. at 204 East Washington, Doniphan, Missouri 63935.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney  
District Director, Kansas City Office  
Enforcement Bureau

---

<sup>7</sup> See 47 C.F.R. § 1.1914.